IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

INCOME TAX REFERENCE No 65 of 1991

For Approval and Signature:

Hon'ble MR.JUSTICE M.S.SHAH
and
Hon'ble MR.JUSTICE D.A.MEHTA

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

COMMISSIONER OF INCOEM TAX

Versus

RAJENDRA CORPORATION

Appearance:

1. INCOME TAX REFERENCE No. 65 of 1991

MR BB NAIK with MR MANISH R BHATT for Petitioner No. 1

NOTICE SERVED for Respondent No. 1

CORAM : MR.JUSTICE M.S.SHAH
and
MR.JUSTICE D.A.MEHTA

Date of decision: 16/10/2001

ORAL JUDGEMENT

(Per : MR.JUSTICE M.S.SHAH)

In this reference at the instance of the revenue, the following question is referred for our opinion in respect of assessment year 1983-84:-

"Whether on the facts and in the circumstances of the case and having regard to the provisions of the Trust Deed dtd.2-7-1977 and the release deed dtd. 7-10-1980 the trust can be treated as discretionary trust liable to be assessed at the maximum marginal rate under section 164 of the Income-tax Act, 1961 ?"

2. We have heard Mr BB Naik learned counsel for the revenue. Though served, none appears for the respondent-assessee.

3. Our attention is invited to the decision dated 28th August, 2001 of this Court in Income Tax Reference No.130 of 1987 in case of the same assessee.

Following the aforesaid decision, our answer to the question is in the negative i.e. in favour of the assessee and against the revenue.

4. The Reference accordingly stands disposed of with no order as to costs.

(M.S. Shah,J)

(D.A. Mehta,J)

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